

AMENDED IN ASSEMBLY AUGUST 5, 1996

AMENDED IN SENATE APRIL 18, 1996

SENATE BILL

No. 2003

Introduced by Senator Costa

February 23, 1996

An act to *add Section 1799.111 to the Health and Safety Code, to amend Section 5150 of, and to add Sections 5150.5 and 5150.6 to, the Welfare and Institutions Code, relating to health care.*

LEGISLATIVE COUNSEL'S DIGEST

SB 2003, as amended, Costa. Mental health: patient transfers.

Existing law prohibits any person who in good faith, and not for compensation, renders emergency care at the scene of an emergency from being liable for any civil damages resulting from any act or omission. Existing law also establishes certain requirements regarding factors for consideration in any action for damages involving a claim for negligence against a physician and surgeon for emergency medical services provided in a general acute care hospital emergency department.

This bill would provide that a general acute care hospital, its licensed professional staff, or any physician and surgeon providing emergency medical services to any person at the hospital shall not be civilly or criminally liable for detaining a person, or for the actions of the person following release from the hospital, if certain conditions exist. The bill would also

require the hospital to comply with all state laws pertaining to the use of seclusion and restraint and psychiatric medications for psychiatric patients.

Existing law also provides that when any person, as a result of mental disorder, is a danger to others, himself, or herself, or is gravely disabled, specified persons may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

This bill would establish procedures applicable to circumstances where an individual is taken into custody and presented for treatment at a facility not designated by a county and approved by the department, including those instances where a transfer to a designated facility is required.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1799.111 is added to the Health*
2 *and Safety Code, to read:*

3 1799.111. (a) *A licensed general acute care hospital,*
4 *as defined by subdivision (a) of Section 1250, licensed*
5 *professional staff of the hospital, or any physician and*
6 *surgeon, providing emergency medical services to a*
7 *person at the hospital shall not be civilly or criminally*
8 *liable for detaining a person, or for the actions of the*
9 *person after release from the hospital, if all of the*
10 *following conditions exist:*

11 (1) *The person cannot be safely released from the*
12 *hospital because, in the opinion of the treating physician*
13 *and surgeon, the person, as a result of a mental disorder,*
14 *presents a danger to himself or herself, or others, or is*
15 *gravely disabled. For purposes of this paragraph, “gravely*
16 *disabled” means an inability to provide for his or her basic*
17 *personal needs of food, clothing, or shelter.*

18 (2) *The hospital staff or treating physician and surgeon*
19 *have made, and documented, repeated unsuccessful*



1 *efforts to find appropriate mental health treatment for*
2 *the person.*

3 *(3) The person is not detained beyond eight hours.*

4 *(b) Nothing in this section shall affect the*
5 *responsibility of a general acute care hospital to comply*
6 *with all state laws and regulations pertaining to the use of*
7 *seclusion and restraint and psychiatric medications for*
8 *psychiatric patients. Persons detained under this section*
9 *shall retain their legal rights regarding consent for*
10 *medical treatment.*

11 *(c) A person detained under this section shall be*
12 *credited for the time detained, up to eight hours, in the*
13 *event he or she is placed on a subsequent 72-hour hold*
14 *pursuant to Section 5150 of the Welfare and Institutions*
15 *Code.*

16 *SEC. 2. Section 5150 of the Welfare and Institutions*
17 *Code is amended to read:*

18 *5150. When any person, as a result of mental disorder,*
19 *is a danger to others, or to himself or herself, or gravely*
20 *disabled, a peace officer, member of the attending staff,*
21 *as defined by regulation, of an evaluation facility*
22 *designated by the county, designated members of a*
23 *mobile crisis team provided by Section 5651.7, or other*
24 *professional person designated by the county may, upon*
25 *probable cause, take, or cause to be taken, the person into*
26 *custody and place him or her in a facility designated by*
27 *the county and approved by the State Department of*
28 *Mental Health as a facility for 72-hour treatment and*
29 *evaluation.*

30 *The facility shall require an application in writing*
31 *stating the circumstances under which the person's*
32 *condition was called to the attention of the officer,*
33 *member of the attending staff, or professional person, and*
34 *stating that the officer, member of the attending staff, or*
35 *professional person has probable cause to believe that the*
36 *person is, as a result of mental disorder, a danger to others,*
37 *or to himself or herself, or gravely disabled. If the*
38 *probable cause is based on the statement of a person other*
39 *than the officer, member of the attending staff, or*
40 *professional person, the person shall be liable in a civil*

1 action for intentionally giving a statement which he or
2 she knows to be false.

3 For the purposes of this chapter, a health care facility
4 shall be considered a designated facility only for those
5 classes of patients for which it has been licensed by the
6 State Department of Health Services.

7 ~~SEC. 2.—~~

8 *SEC. 3.* Section 5150.5 is added to the Welfare and
9 Institutions Code, to read:

10 5150.5. A person subject to being placed in custody
11 under Section 5150 presented for treatment at a facility
12 not designated by the county and approved by the State
13 Department of Mental Health as a facility for 72-hour
14 treatment and evaluation and whose medical condition
15 does not preclude transfer, shall not be denied evaluation
16 at a designated facility. The transfer of such an individual
17 shall not be unreasonably delayed by a designated facility
18 and shall comply with all applicable state and federal laws
19 regarding transfer of patients between health care
20 facilities. In particular, Section 1317 of the Health and
21 Safety Code shall be followed when transferring patients
22 for noneconomic reasons. Additionally, the transfer shall
23 comply with any regulations developed by a county so
24 long as those regulations do not conflict with existing state
25 and federal law. The 72 hours provided for evaluation of
26 the individual shall start when he or she arrives at a
27 designated facility. Nonetheless, the individual shall be
28 considered to be in custody while awaiting transfer to the
29 designated facility, provided the time from placing him
30 or her into custody to the time of actual transfer does not
31 exceed eight hours.

32 A nondesignated facility and professional persons
33 acting in the capacity of a designated facility and
34 professional persons under this section shall be afforded
35 the same immunities and exemptions from liability as
36 afforded a designated facility and professionals at
37 designated facilities.

38 ~~SEC. 3.—~~

39 *SEC. 4.* Section 5150.6 is added to the Welfare and
40 Institutions Code, to read:

1 5150.6. A person who would otherwise be subject to
2 being placed in custody as provided by Section 5150, but
3 whose medical condition prevents transfer to a facility
4 designated by the county and approved by the State
5 Department of Mental Health as a facility for 72-hour
6 treatment and evaluation may, nonetheless, be detained
7 in a nondesignated facility until such time as his or her
8 medical condition improves to make the transfer
9 reasonably safe so as not to imperil the physical well-being
10 of that person. All other provisions of Section 5150 shall
11 apply to this section.

12 Should a detained person's condition require medical
13 treatment at a nondesignated facility, a psychiatrist on
14 staff at the nondesignated facility, a licensed clinical social
15 worker, or member of a mobile crisis team shall evaluate
16 the mental health of the detained person within 24 hours
17 of admission and provide such psychiatric treatment as
18 possible consistent with the medical condition of the
19 individual and the scope of practice of the mental health
20 professional.

21 If a nondesignated facility has no psychiatrist on staff,
22 then reasonable attempts shall be made to obtain the
23 consultation of a mobile crisis team as provided by Section
24 5651.7.

25 Should a detained person's medical condition require
26 treatment at a nondesignated facility for longer than 72
27 hours a hearing as provided in Section 5250 shall be held.

28 In addition to the information required to be given to
29 a person subject to this section by Section 5157, an
30 additional written statement as to why transfer to a
31 designated facility is either not appropriate or possible
32 shall be added to the form used to comply with Section
33 5157 requirements.

34 When the medical condition of a person subject to this
35 section improves so that transfer to a designated facility
36 can be accomplished safely, and a psychiatrist at the
37 nondesignated facility determines that further
38 evaluation is warranted, or that determination is made by
39 a mobile crisis team, then the transfer shall take place
40 consistent with Sections 5150 and 5150.5. Consistent with

1 Section 5150.5, the 72 hours provided for psychiatric
2 evaluation and treatment start when the individual
3 arrives at a designated facility.

4 A nondesignated facility and professional persons
5 acting in the capacity of a designated facility and
6 professional persons under this section shall be afforded
7 the same immunities and exemptions from liability as
8 afforded a designated facility and professionals at
9 designated facilities.

